

SENATE BILL REPORT

SB 5640

As of February 11, 2009

Title: An act relating to intermediate care facilities for persons with developmental disabilities.

Brief Description: Concerning intermediate care facilities.

Sponsors: Senators Murray, Schoesler, Delvin and Kohl-Welles.

Brief History:

Committee Activity: Health & Long-Term Care: 2/09/09.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Rhoda Donkin (786-7465)

Background: Currently, approximately 1,000 persons with developmental disabilities live in five state-operated Residential Habilitation Centers (RHC). These are federally designated institutions, also known as Intermediate Care Facilities for the Mentally Retarded (ICFMR). They are certified to provide care and services under Medicaid entitlement programs, the standards for which are outlined in federal and state regulation. The state's five RHCs include Fircrest School in Seattle, Lakeland Village in Medical Lake, Rainier School in Buckley, Yakima Valley School in Selah, Frances Haddon Morgan in Bremerton.

The state's long-term care resident rights' laws include a range of protections for people who are considered to be among the state's most vulnerable persons. These residents' rights include for example, protections for privacy, confidentiality of medical records, conditions required before transfer or discharge, prohibitions against physical or chemical restraint, and requirements related to personal financial disclosure. Residents in skilled nursing facilities, boarding homes, veteran's homes and adult family homes are included in these laws. Individuals living in RHCs are not currently included in the state's long-term care residents rights statute.

Summary of Bill: Residents of RHCs are included in the state's long-term care resident rights statute. The term "mentally retarded" is replaced with "persons with developmental disabilities" in the title referencing the federal name "Intermediate Care Facility for the Mentally Retarded." Along with the rights related to privacy, restraints, disclosures of medical records and financial information, residents of RHCs also may not be required to waive these rights. Further, an RHC may not transfer or discharge a resident unless the move

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is necessary for health or safety reasons, the facility can not meet the resident's needs, there is no payment, or if the facility has ceased to operate. The state's long-term care ombudsman will monitor implementation of the state's long-term care resident rights statute for persons in RHCs.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is about providing equal rights and a voice to people who have no voice. Civil rights shouldn't be based on circumstance or where one chooses to live. The bill corrects an inequity in law. Disability rights organizations are opposing what is in the best interests of people in Residential Habilitation Centers. This bill protects people against being transferred from where they live for nontherapeutic reasons. The truth about downsizing is that it tears families apart, and leaves vulnerable individuals completely confused and despairing. All we are asking for is to affirm the civil rights of these individuals.

CON: This bill is really about stopping the downsizing of RHCs. It gives guardians the ability to veto transfers from one RHC to another, which will stop efforts to consolidate institutions. Within the DD population, we don't feel it is right to create additional rights for one subgroup of people only, as this legislation attempts to do. If rights are to be extended to persons with developmental disabilities, extend them to all people with disabilities, including those in supported living, which is not what this bill does. This was not done with the consultation of people with developmental disabilities. We think they should have been included in this decision.

Persons Testifying: PRO: Terri Anderson, Voice of the Retarded; Michael Johnson, Action DD; Jim Hardman, Friends of Fircrest; Julian Wheeler, Washington State Developmental Disabilities Council; Bill Anderson, parent.

CON: David Lord, Disability Rights of Washington; Sue Elliott, ARC of Washington; Linda Rolfe, DSHS; Ed Holen DD Council.